

REMARKS

Favorable consideration and allowance of the present application are respectfully requested in view of the foregoing amendments and the following remarks.

Currently, claims 14-22, and 44-53 are pending in the present application, including independent claim 14. Claims 14, 16-19, and 44-53 are being amended in this paper.

As an initial matter, the Office Action discussed several restriction requirements at pages 2 and 3. Accordingly, Applicants have listed claims 54-77 as withdrawn as shown at pages 7-10 of this paper.

With regard to claim 44, Applicants inadvertently listed this claim as "Withdrawn" in the previous Response to Office Communication filed on November 18, 2004. Claim 44 as amended herein recites "the absorbent article of Claim 14 wherein each discrete segment has a volume of between about 3 picoliters to about 200 picoliters," which is merely a narrower volume range than the "between about 3 picoliters and about 400 nanoliters" volume range recited in independent claim 14. Despite the manner in which application of the pattern of discrete segments of medicinal composition occurs (e.g., by valve jet, by piezo jet, or by some other method), discrete segments having a volume within the ranges claimed in both claims 14 and 44 can be formed. (See Appl., p. 4, lines 1-9; p. 5, lines 4-32). Thus, claim 44 should be included in the group containing claims 14-22 and 44-53 (which the Examiner agreed with in the Restriction Requirement mailed on June 25, 2004, wherein "Group I" included claims 14-22 and 44-53).

With regard to claims 47-51, discussed in the paragraph bridging pages 2 and 3 of the Office Action, Applicants respectfully submit that these claims, as amended

herein, should not be withdrawn from consideration based on any sort of restriction requirement. Claims 47-49 now recite that the "medicinal composition" has a certain melting point, while claims 50-51 now recite that the "medicinal composition" has a certain shear viscosity at a temperature of about 60°C. (See Appl., p. 10, line 34 – p. 11, line 8). Despite the manner in which application of discrete segments of medicinal composition occurs (e.g., by valve jet, by piezo jet, or by some other method), a medicinal composition can be used that has a melting point within the ranges recited in claims 47-49 and/or has a shear viscosity within the ranges recited in claims 50-51. Thus, claims 47-51 should remain with the group containing claims 14-22 and 44-53.

Additionally, at page 3 of the Office Action, claims 45-46 and 52-53 were objected to. Applicants respectfully submit that claims 45-46 and 52-53, as amended herein, overcome such objections.

Independent claim 14, as amended, is directed to an absorbent article comprising a topsheet and an absorbent material positioned adjacent the topsheet. The topsheet has a surface adapted to face a body, and the topsheet comprises a porous material. The topsheet has medicinal composition applied in a pattern upon the surface of the topsheet in an effective amount, wherein the medicinal composition is adjacent the porous material. The pattern of medicinal composition comprises a matrix of discrete segments, each discrete segment having a volume of between about 3 picoliters and about 400 nanoliters.

In the Office Action, independent claim 14 was rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 3,585,998 to Hayford, et al. Hayford, et al. is directed to a disposable diaper having a centrally located absorbent core, a moisture-

impermeable exterior liner, and a moisture-permeable interior liner having on its surface an array of spherically-shaped, pressure-rupturable capsules containing liquid baby oil. (Col. 6). Each individual capsule has a solid external phase made of cell wall material as well as a liquid internal phase, the baby oil formulation. (Col. 1, lines 22-39).

Applicants respectfully submit that independent claim 14 patentably defines over Hayford, et al. Independent claim 14, as amended, requires that the medicinal composition is "adjacent" the porous material of the topsheet. (See, e.g., Appl. p. 13, lines 1-4). In contrast, any "medicinal composition" (i.e., the liquid baby oil formulation) in Hayford, et al. is not "adjacent" the fibrous interior liner 2, but rather is contained within inert, solid capsule walls which must be broken for the baby oil formulation to reach a baby's skin.

Applicants' specification describes that a medicinal composition suitable for use in the absorbent articles of the present invention is one that provides a benefit or therapeutic effect to the skin through directly, physically contacting a user's skin. (See, e.g., Appl., p. 6, lines 24-26; p. 10, lines 17-26). Further, a medicinal composition suitable for use herein is applied to the topsheet directly in a manner to allow the release of the medicinal composition from the topsheet onto the wearer's skin through normal contact, wearer motion, and/or body heat. (Appl. p. 12, line 35 – p. 13, line 4). And in certain embodiments, additives such as surfactants are used to enhance the direct transferability of the medicinal composition from the porous material of the topsheet to the user's skin. (Appl. p. 13, lines 4-15). No such absorbent article is taught by Hayford, et al.

Therefore, Applicants respectfully submit that independent claim 14 patentably defines over Hayford, et al., since in the presently claimed absorbent article, a medicinal composition is applied in a pattern upon a topsheet's surface and the medicinal composition is *adjacent* the porous material of the topsheet, *not* separated from the porous material of the topsheet by an inert, solid capsule cell wall. The capsules of Hayford, et al. require substantial pressure in order to release the liquid baby oil formulation onto a user's skin and, more generally, would defeat the purpose of providing a beneficial, therapeutic medicinal composition adjacent the porous material of a topsheet so that the medicinal composition is readily transferable to the user's skin to help, not hurt (see, e.g., discussions of capsule chaff in column 1 of Hayford, et al.) the user's skin. Accordingly, Applicants respectfully submit that independent claim 14 patentably defines over Hayford, et al.

The dependent claims were also rejected either under 35 U.S.C. § 102 or § 103 as being unpatentable over Hayford, et al., some further in view of U.S. Patent No. 6,153,209 to Vega, et al. and PCT Publication No. WO 00/64500 to Krzysik, et al. Applicants respectfully submit that at least for the reasons indicated above relating to independent claim 14, dependent claims 15-22 and 44-53 patentably define over the reference(s) cited. However, Applicants also note that the patentability of dependent claims 15-22 and 44-53 does not necessarily hinge on the patentability of independent claim 14. In particular, some or all of dependent claims 15-22 and 44-53 are believed to possess features that are independently patentable, regardless of the patentability of independent claim 14.

Lastly, claims 14-18, 20-22, 45-46, and 52-53 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 12-17 and 20-23 of co-pending, co-owned Application Serial No. 09/990,686. Claim 19 was provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 12-17 and 20-23 of the 09/990,696 application in view of U.S. Patent No. 6,153,209 to Vega, et al. and PCT Publication No. WO 00/64500 to Krzysik, et al. Without commenting on the propriety of this provisional rejection, Applicants are submitting herewith a Terminal Disclaimer with respect to the 09/990,686 application, pursuant to 37 C.F.R. § 1.321(c). This Terminal Disclaimer addresses what is discussed in the section of the Office Action termed "Common Ownership" at pages 9-10.

It is believed that the present application is in complete condition for allowance and favorable action, therefore, is respectfully requested. Examiner Reichle is invited and encouraged to telephone the undersigned, however, should any issues remain after consideration of this Amendment.

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Please charge any additional fees required by this Amendment to Deposit
Account No. 04-1403.

Respectfully submitted,

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